

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DURRELL ANTHONY PUCKETT,

Plaintiff,

v.

HEATH, et al.,

Defendants.

No. 2:22-cv-0476-DJC-CKD P

ORDER

Plaintiff is a state prisoner proceeding without an attorney in this civil rights action filed pursuant to 42 U.S.C. § 1983. On May 19, 2025, defendants filed a motion to dismiss under 28 U.S.C. § 1915(e)(2)(A) asserting plaintiff made a false declaration of poverty in his application for in forma pauperis status. (ECF No. 87.) Defendants served the motion to plaintiff at his address of record at California Health Care Facility - Stockton. Plaintiff did not timely oppose the motion. On June 4, 2025, plaintiff filed a notice of change of address to California State Prison – Sacramento (“CSP-SAC”). (ECF No. 88.) The record does not reflect whether any re-service of defendant’s motion to dismiss was necessary, and if so, whether the motion was re-served. The court will order defendants to re-serve a copy of the motion to dismiss to plaintiff at his current address of record if they have not already done so and to file proof of such service within 3 days of the date of this order.

1 Plaintiff is informed that Local Rule 230(l) provides in part: “Failure of the responding
2 party to file written opposition or to file a statement of no opposition may be deemed a waiver of
3 any opposition to the granting of the motion....” Id. Local Rule 110 provides that failure to
4 comply with the Local Rules “may be grounds for imposition of any and all sanctions authorized
5 by statute or Rule or within the inherent power of the Court.” Id. Plaintiff is hereby cautioned that
6 failure to comply with the Local Rules may result in a recommendation that the action be
7 dismissed.

8 In addition, Rule 41(b) of the Federal Rules of Civil Procedure provides:

9 **Involuntary Dismissal; Effect.** If the plaintiff fails to prosecute or
10 to comply with these rules or a court order, a defendant may move to
11 dismiss the action or any claim against it. Unless the dismissal order
12 states otherwise, a dismissal under this subdivision (b) and any
dismissal not under this rule--except one for lack of jurisdiction,
improper venue, or failure to join a party under Rule 19--operates as
an adjudication on the merits.

13 Id.

14 With these cautions in place and any necessary re-service of the motion ordered, the court
15 will grant plaintiff an extension of time to file an opposition to defendants’ motion to dismiss.

16 Good cause appearing, IT IS HEREBY ORDERED as follows:

- 17 1. If defendants have not already served a copy of their motion to dismiss filed on May
18 19, 2025, to plaintiff as CSP-Sac, then they shall do so within 3 days of the date of this
19 order. Also within 3 days of the date of this order, defendants shall file proof of
20 service of the motion to plaintiff at CSP-SAC.
- 21 2. Within 21 days from the date of this order, plaintiff shall file an opposition, if any, to
22 the motion to dismiss. Defendants may file a reply within 14 days of any opposition
23 filed by plaintiff. Failure to file an opposition will be deemed as consent to have the

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1 action dismissed for failure to comply with a court order and these rules and will result in a
2 recommendation that this action be dismissed pursuant to Federal Rule of Civil Procedure 41(b).

3 Dated: June 26, 2025



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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